

REFERENCE TITLE: ASRS; service; military; purchase; requirements

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1351

Introduced by
Senator Gould

AN ACT

AMENDING SECTIONS 38-743 AND 38-744, ARIZONA REVISED STATUTES; AMENDING SECTION 38-745, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 244, SECTION 1; REPEALING SECTION 38-745, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 244, SECTION 2; REPEALING LAWS 2007, CHAPTER 244, SECTION 4; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-743, Arizona Revised Statutes, is amended to
3 read:

4 38-743. Public service credit

5 A. If an active member of ASRS or a member who is receiving benefits
6 pursuant to section 38-797.07 was previously employed by the United States
7 government, a state, TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR
8 AREA of the United States or a political subdivision of a state, TERRITORY,
9 COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR AREA of the United States,
10 excluding any time worked for a prison while the member was incarcerated, the
11 member may receive credited service for this prior employment if the member
12 pays into ASRS the amount prescribed in subsection B of this section.

13 B. A member who elects to receive credit for service with the United
14 States government, a state, TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR
15 INSULAR AREA of the United States or a political subdivision of a state,
16 TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR AREA of the United
17 States shall pay to ASRS an amount equal to the present value of the
18 additional benefit that is derived from the purchased credited service using
19 the actuarial assumptions that are approved by the board.

20 C. A member who previously was a member of another public employee
21 retirement system and who receives or is eligible to receive retirement
22 benefits from that system for any period of employment is ineligible to
23 receive retirement benefits from ASRS for the same period.

24 D. BEGINNING JULY 1, 2010, A MEMBER SHALL HAVE AT LEAST FIVE YEARS OF
25 CREDITED SERVICE IN ASRS BEFORE ELECTING TO RECEIVE CREDIT FOR SERVICE
26 PURSUANT TO THIS SECTION.

27 Sec. 2. Section 38-744, Arizona Revised Statutes, is amended to read:

28 38-744. Leave of absence: credit for leave without pay

29 A. If an active member of ASRS or a member who is receiving benefits
30 pursuant to section 38-797.07 is officially granted a leave of absence from
31 employment without pay and returns to employment with the same employer,
32 unless employment could not be resumed because of disability or
33 nonavailability of a position, the member may elect to be credited with
34 service for retirement purposes for not more than one year of the leave by
35 paying to ASRS the amounts as provided in subsection B of this section, if
36 the member has not withdrawn contributions from ASRS and the member's
37 employer has certified that the leave of absence benefits or is in the best
38 interests of the employer.

39 B. A member who elects to be credited with a leave period as provided
40 in subsection A of this section shall pay to ASRS an amount equal to the
41 present value of the additional benefit that is derived from the purchased
42 credited service using the actuarial assumptions that are approved by the
43 board.

1 C. BEGINNING JULY 1, 2010, A MEMBER SHALL HAVE AT LEAST FIVE YEARS OF
2 CREDITED SERVICE IN ASRS BEFORE ELECTING TO RECEIVE CREDIT FOR SERVICE
3 PURSUANT TO THIS SECTION.

4 C. D. For the purposes of subsection A of this section, each employer
5 shall adopt rules establishing guidelines for a leave of absence that
6 benefits or is in the best interests of the employer.

7 Sec. 3. Section 38-745, Arizona Revised Statutes, as amended by Laws
8 2007, chapter 244, section 1, is amended to read:

9 38-745. Credit for military service

10 A. An active member of ASRS or a member who is receiving benefits
11 pursuant to section 38-797.07 may purchase credited service in ASRS for
12 active military service if ~~both~~ ALL of the following apply:

13 1. The member was honorably separated from the military service.

14 2. The member submits a copy of the member's military service record
15 (DD-214) or its equivalent with the member's application for military service
16 credit.

17 3. BEGINNING JULY 1, 2010, A MEMBER HAS AT LEAST FIVE YEARS OF
18 CREDITED SERVICE IN ASRS.

19 B. The cost to purchase military service credit is an amount equal to
20 the present value of the additional benefit that is derived from the
21 purchased credited service using the actuarial assumptions that are approved
22 by the board.

23 C. An active member of ASRS who is called to active military service
24 may receive credited service for not more than sixty months of active
25 military service, except as provided by the uniformed services employment and
26 reemployment rights act (38 United States Code section 4312(c)). The
27 member's employer shall make employer contributions and member contributions
28 for the member if the member meets the following requirements:

29 1. Was an active member of ASRS on the day before the member began
30 active military service.

31 2. Is a member of the Arizona national guard or is a member of the
32 reserves of any military establishment of the United States.

33 3. Volunteers or is ordered into active military service of the United
34 States as part of a military call-up.

35 4. One of the following occurs:

36 (a) Is honorably separated from active military service and returns to
37 employment for the same employer from which the member left for active
38 military service within ninety days after the date active military service is
39 terminated.

40 (b) Is hospitalized as a result of military service and returns to
41 employment for the same employer from which the member left for active
42 military service within ninety days after release from service related
43 hospitalization.

44 (c) Becomes disabled as a result of or during the military service and
45 is unable to return to the same employer.

1 (d) Dies as a result of or during the military service.

2 D. Contributions made pursuant to subsection C of this section shall
3 be for the period of time beginning on the date the member began active
4 military service and ending on the later of one of the following dates:

5 1. The date the member is separated from active military service.

6 2. The date the member is released from service related
7 hospitalization or one year after initiation of service related
8 hospitalization, whichever date is earlier.

9 3. One year after the date of disability.

10 4. The date the member dies as a result of or during active military
11 service.

12 E. Notwithstanding any other law, on payment of the contributions made
13 pursuant to subsection C of this section, the member shall be credited with
14 service for retirement purposes for the period of time of active military
15 service of not more than sixty months.

16 F. The employer shall make contributions pursuant to subsection C of
17 this section as follows:

18 1. Contributions shall be based on the compensation that a member
19 would have received but for the period that the member was ordered into
20 active military service.

21 2. If the employer cannot reasonably determine a member's rate of
22 compensation for the period that the member was ordered into active military
23 service, the employer shall make contributions based on the member's average
24 rate of compensation during the twelve-month period immediately preceding the
25 period of active military service.

26 3. If a member has been employed less than twelve months before being
27 ordered into active military service, the employer shall make contributions
28 based on the employment period immediately preceding the period of active
29 military service.

30 4. Employer contributions shall be made in a lump sum and without
31 penalty when the member returns to employment, when it is determined that the
32 member is unable to return to employment because of a disability as a result
33 of or that occurred during military service or on receipt of the member's
34 death certificate. If a member suffers a service related death, the employer
35 shall make the employer and member contributions up to and including the date
36 of the member's death. Death benefits shall be calculated as prescribed by
37 law.

38 G. In computing the length of total credited service of a member for
39 the purpose of determining retirement benefits or eligibility, the period of
40 military service, as prescribed by this section, shall be included.

41 H. Notwithstanding any other law, the member is not required to
42 reimburse the member's employer or ASRS for any contribution made pursuant to
43 subsection C of this section.

44 I. In addition to, but not in duplication of, the provisions of
45 subsection C of this section, contributions, benefits and credited service

1 provided pursuant to this section shall be provided in accordance with
2 section 414(u) of the internal revenue code.

3 Sec. 4. Repeals

4 A. Section 38-745, Arizona Revised Statutes, as amended by Laws 2007,
5 chapter 244, section 2, is repealed.

6 B. Laws 2007, chapter 244, section 4 is repealed.

7 Sec. 5. Retroactivity

8 A. Section 38-745, Arizona Revised Statutes, as amended by section 3
9 of this act, applies retroactively to from and after June 30, 2009.

10 B. Section 4 of this act is effective retroactively to from and after
11 June 30, 2009.